

**University at Albany
Center for Public Health
Preparedness**

Grand Rounds Series

November 10, 2005

**Isolation and
Quarantine:
Practice and Law**

Public Health Grand
Rounds
University at Albany Center
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Speaker

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Evaluation

**[http://www.ualbanycphp.org/eval/cphp
eval.cfm?ID=46](http://www.ualbanycphp.org/eval/cphp
eval.cfm?ID=46)**

Definitions

- **Isolation**

- Separation of ill persons with contagious diseases
- Often, but not always, in a hospital setting
- May be applied to individuals, cohorts, populations

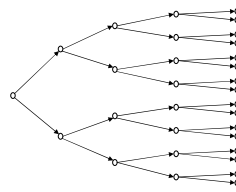
- **Quarantine**

- Restriction of persons who are not ill but presumed exposed
- Usually in the home or a designated facility
- Applied at the individual, group, or community level



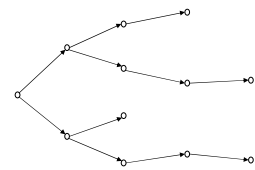
Effect of Increasing Social Distance on Epidemic Dynamics

Exponentiation



$R_0 = 2.0$,
Progression = 1:2:4:8:16

Suppression



$R_0 = 0.67$,
Progression = 1:2:4:3:2

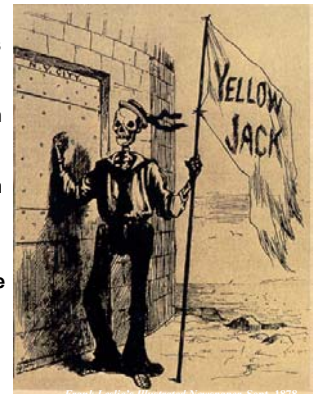


Quarantine Historical Roots

- Biblical accounts of quarantine practices for persons with leprosy
- Epidemic plague in 14th century Europe had profound impact on commerce
 - 1348: System for treatment of infected ships, travelers, and merchandise
 - 1485: Venice established 40-day (Latin: Quadraginta) harbor detention or quarantine

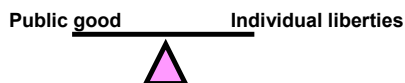


- Quarantine was often equated with torture, exile, and death
- “Death” in a sailor’s uniform is holding the yellow quarantine flag, knocking on the door of NYC during the 1898 yellow fever epidemic



21st Century Concept of Quarantine

“A collective action for the common good predicated on aiding individuals infected or exposed to infectious agents while protecting others from the dangers of inadvertent exposure.”



Criteria for Use of Quarantine

- Persons have been exposed to highly dangerous and contagious disease.
- Resources are available to implement and maintain
- Encompasses a wide range of strategies and in combination with other interventions
- Those in Q/I are among first to receive interventions
- Lasts only as long as necessary



Criteria for Use of Quarantine

- Voluntary quarantine should be favored over compulsory
 - Quarantine does not have to be absolute to be effective
- Must be clear understanding of legal authority
- Must be clear understanding of roles of jurisdictions



Criteria for Use of Quarantine

- Must be coordination and planning with many partners
- Must be education, trust, and participation of general public



Six Questions About Quarantine: True or False?

- | | |
|---|-------|
| • Requires 100% compliance to be effective. | FALSE |
| • Always means using a legal order to restrict someone's activity. | FALSE |
| • Must be mandatory to be effective. | FALSE |
| • Increases a person's risk for acquiring the disease. | FALSE |
| • Not necessary if everyone who develops symptoms is rapidly placed in isolation. | FALSE |
| • Public will not accept it. | FALSE |



Other Ways to Increase "Social Distance"

- "Snow Day" restrictions (shelter-in-place)
 - Close schools, daycare centers, etc.
 - Cancel large public gatherings (concerts, theaters)
 - Minimize other exposures (markets, churches, public transit)
 - Encourage non-essential workers to stay home
 - Telecommuting can minimize economic impact



The U.S. Constitutional Design

- U.S. is a federal system of government
- States are independent, sovereign governments in and of themselves
 - Retain all powers not expressly delegated to the government of the United States



The U.S. Constitutional Design

- Public health is a "police power" retained by the States under the 10th Amendment to the U.S. Constitution
 - Inherent authority to enact laws and regulations to promote health, safety, welfare of citizens



The U.S. Constitutional Design

- In theory, federal government has limited powers
 - Powers enumerated in the Constitution and those implied powers necessary to carry out enumerated powers
 - Regulate interstate and foreign commerce (historically courts have defined very broadly)
 - Collect taxes and spend revenue



The U.S. Constitutional Design

- **Supremacy Clause**
 - If a conflict between federal and state law, federal law is supreme



Concurrent State-Federal Q/I Authorities

- Federal Q/I authority derives from Commerce Clause:
 - Congress shall have the power ... "To regulate Commerce with foreign Nations, and among the several States..." Art I, Section 8.
 - Example: In SARS, federal quarantine authority could be applied to a single SARS case inside a state or local jurisdiction, if necessary. 42 USC §264 and 42 CFR §70.2



Federal Quarantine Statute, 42 U.S.C. § 264

- Allows apprehension and examination of person "infected with a communicable disease..."
 - Must be moving from state to state, or
 - Probable source of infection to individuals who will be moving from state to state, and
 - In a "communicable stage" or a "pre-communicable stage" if disease would cause public health emergency



State Quarantine Laws: Historical Context

- Many state laws have not changed much in 100 years
- Older statutes are typically divided into three categories and treated separately:
 - Tuberculosis
 - "Venereal" diseases (STIs)
 - All other communicable diseases



State Quarantine Laws: Historical Context

- Many states have revised statutes to reflect:
 - Emerging infectious diseases
 - Man-made epidemics
 - Modern notions of civil rights
- Newer statutes often add special powers for "disasters" or "emergencies"



So, Who Is In Charge?

- States primarily responsible for intra-state quarantine
 - 10th Amendment, police power function
 - Tuberculosis most common use for quarantine



So, Who Is In Charge?

- Federal government responsible for quarantine at borders and for interstate movement
 - Regulate foreign and interstate commerce
 - Disease reporting of ill passengers and on cruise ships
- In practice, concurrent jurisdiction is common
 - Airports (feds, state, locals all have some authority!)



Ten-State Analysis of Quarantine Laws: Methods

- March – Dec. 2004: conducted detailed cross-sectional qualitative review of state laws pertaining to Q / I
- 10 most populous U.S. states (US Census 2000): CA, TX, NY, FL, IL, PA, OH, MI, GA, NJ
- Consulted state counsel during study
- Findings circulated to state counsel for review and comment



State Quarantine Laws: Preliminary Results

- Terminology varies greatly among states. Laws may refer to isolation, quarantine, commitment, communication restriction, control of person, detention, exclusion, holding, removal, restriction, segregation, travel restriction, or other unspecified restriction.
- All jurisdictions have general authority to separate or detain
- Some authorities (example: area quarantine) only available during declared emergencies



Ten-State Analysis of Quarantine Laws: Preliminary Conclusions

- Ability to do group quarantine or area quarantine varies: could present theoretical problem in mass quarantine
- Other general concerns about state quarantine law:
 - Compensation for time lost
 - Capacity of local health departments



Ten-State Analysis of Quarantine Laws: Preliminary Conclusions

- Laws are often weakly organized, overlapping, excessively complex, and difficult to read, understand, and interpret
- Laws vary tremendously from state to state
- Adequacy difficult to judge in absence of court challenges, which are rare
- In some states, procedural requirements could complicate mass quarantines



State Quarantine Laws: Preliminary Results (continued)

Characteristic	Yes	No	Maybe/Unclear
Basic authority to impose quarantine	10	0	0
Local authority to impose quarantine	10	0	0
Area quarantine expressly authorized	2	6	2
Group quarantine expressly authorized	1	8	1



Note: Results are preliminary and provided for illustration purposes only.

States Q Law Review Example: New York State

- Primary quarantine authority rests with local public health officers and boards
- Authorized to use "recognized measures which tend to reduce morbidity and mortality."
- "Necessary and proper" to preserve life and health
- Local boards and officers may issue warrants to peace officers, sheriffs, or police officers to apprehend and remove such persons as cannot otherwise be subjected to its orders.



States Quarantine Law Review Example: New York State

- Area quarantine not mentioned explicitly but local officers may "prohibit and prevent all intercourse and communication with or use of infected premises, places, and things."
- Group quarantine not mentioned explicitly but broad authority of local officers to "guard against the introduction of communicable diseases..."



States Quarantine Law Review Example: New York State

- Due process: Hearing. Persons committed to an institution are entitled to an appeal.
- Due Process: Notice: Orders must be filed with county health commissioner or state district health officer.
- Due process: Attorney: No provision.
- Due process: Habeas corpus is not mentioned in statute but is mentioned in a case, In Re Smith



Implications for County and State Health Officers/BOH Members

- Understand your Q/I powers before an emergency arises. Discuss with your attorneys:
 - Types of restrictions authorized
 - Legal standards for triggering powers
 - Procedures (orders, appeals, etc.)
 - State vs. local jurisdiction/coordination
 - Enforcement



Implications for County and State Health Officers/BOH (Continued)

- Understand how your laws would work operationally in an emergency
 - Participate in public health emergency simulations and exercises -- keep aware of legal parameters.
- Be actively involved in reviews of your state's Q/I laws
- Keep aware of national and state developments (i.e. CDC Public Health Law News, training, conferences, etc.)



CDC Public Health Law Program Resources / Tools

www2a.cdc.gov/phlp

- *The CDC Public Health Law News*
- Public health legal preparedness resources
- Readings in public health law
- “Forensic Epidemiology” information
- “Community PH Legal Preparedness”



CDC Public Health Emergency Law Course

- Six PowerPoint lecture units aimed primarily at non-lawyer professionals in public health and emergency management organizations.
- CD-ROM contains all of the course's components.



Evaluation

http://www.ualbanycphp.org/eval/cphp_eval.cfm?ID=46

December 8, 2005 10:00a.m. est

Surge Capacity for Disasters: The Role of the Community Health/Public Health Nurse

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